

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2002-153

May 21, 2002

JONATHAN REISMAN, ET AL
Request for Commission Action to Initiate a
Rulemaking Amendment Proceeding to
Chapter 306 to Correct Alleged Inaccurate
Information in the Label Description

ORDER ON
RECONSIDERATION

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

SUMMARY

We deny requests to reconsider our April 26, 2002 Order in which we declined to immediately reopen our rules to consider concerns regarding CO₂ information requirements.

BACKGROUND AND DISCUSSION

On March 19, 2002, Jonathan Reisman filed a petition signed by ten ratepayers asking the Commission to reopen its rule governing the content and distribution of uniform disclosure labels (Chapter 306). The petitioners requested that the Commission modify the rule to correct what in their view is inaccurate and misleading information with respect to CO₂ emissions.

On April 26, 2002, we declined to immediately reopen Chapter 306 to consider the petitioners' concerns. We stated that the rule was adopted as a result of a legislative directive, it was promulgated consistent with Maine's Administrative Procedure Act and the Commission's procedural rules, and was explicitly approved by the Legislature. We concluded that there was no immediate need to reopen the rule, but informed the petitioners of our expectation that the rule would be reopened for a comprehensive review during the year and that the petitioners' concerns could be raised at that time.

In a letter dated April 28, 2002, Mr. Reisman sought to "appeal" the Commission's ruling. Mr. Reisman submitted some documents in support of his position and argued that the rule should be reopened because relevant information concerning the impact of CO₂ emissions has been developed subsequent to the promulgation of the rule. The Commission received a similar e-mail from Frank Heller (dated April 28, 2002), one of the petitioners, seeking an "appeal" of the Commission's decision. By letters dated May 2, 2002, the Administrative Director informed Mr. Reisman and Mr. Heller that their letters would be treated as petitions for reconsideration pursuant to the Commission's procedural rules.

We reaffirm our decision not to immediately reopen Chapter 306 to address the CO₂ issues and thus deny the petitions for reconsideration. Chapter 306 has been in effect since March 2000 and the petitions for reconsideration have not conveyed the urgency for us to immediately address the CO₂ issue. There is no suggestion, for example, that Maine's current inclusion of CO₂ on the label has had the slightest impact on consumer behavior. Indeed, those trying to sell "green," however defined, seem to have had little success in penetrating the Maine market. This is especially the case in that any change to the rule must be approved by the Legislature and thus could not become effective in any case until the next legislative session. We remind the petitioners that, as stated in our April 26, 2002 Order, we intend to reopen Chapter 306 in the near term and any concerns regarding CO₂ information can be raised at that time. Because we intend to reopen the rule in the near future and rule changes cannot become effective until approved by the Legislature, the petitioners are in no way prejudiced by our decision not to immediately reopen the rule.

Dated at Augusta, Maine, this 21st day of May, 2002.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.